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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,989	08/26/2003	Joseph Pressutti	2003-010	2495

7590 01/11/2005

Law Office of Terry L. Miller  
24832 Via San Fernando  
Mission Viejo, CA 92692

EXAMINER
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KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/647,989

Applicant(s)

PRESSUTTI ET AL.

Examiner

Basil Katcheves

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 17 is/are rejected.
- 7) ☒ Claim(s) 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 recites the limitation "said trapezoidally-shaped sheet" in line 1.

There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3-5,8, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,913,294 to Freiborg.

Regarding claims 1 and 12, Freiborg discloses a folded ridge cover (fig. 1: 20) which is double folded upon itself transversely (fig. 4) to form a double Z shape bend (4: near 20b), including a T shaped slit (fig. 5: 36 & 38) and transverse grooves (fig. 5: 40, 42, 44 & 46) formed by scoring in order to aid folding.

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Regarding claim 3, Freiborg discloses a rectangular end (fig. 5: 34) joined with a tapered opposite portion (portion shown to the left of 48).

Regarding claim 4, Freiborg discloses the transverse grooves (fig. 5: 40) as transecting the T slit (fig. 5: 36, 38).

Regarding claim 5, Freiborg discloses the tapered portion as being trapezoidal.

Regarding claim 8, Freiborg discloses a ridge cover having a slit T (fig. 5: 36, 38), transverse, spaced grooves (fig. 5: 40, 42, 44 & 46) intersecting the T, a rectangular portion (fig. 5: 34), and a tapered portion (fig. 5: left of 48).

Regarding claim 13, Freiborg discloses scoring the surface of the cover. Applicant should note that a supporting member on the opposite cover side, even though not mentioned by Freiborg, is inherently necessary or else the scoring tool will not be capable of impressing a score on the opposite face.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 9, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,913,294 to Freiborg in view of U.S. Patent No. 5,365,711 to Pressutti et al.

Regarding claim 2, Freiborg does not disclose the use of inorganic fiber material with an asphaltic matrix and additive to improve flexibility. Pressutti discloses the use of inorganic fibrous materials having an asphaltic impregnation to aid in the flexibility of shingles (column 2, lines 29-38). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Freiborg by using the flexible inorganic material as disclosed by Pressutti, in order to aid in the bending of the ridge cover.

Regarding claim 9, claim 9 is rejected for reasons cited in the rejection of claim 1. In addition, Freiborg does not disclose the cover as integrally joined at manufacture. Pressutti discloses integrally joined covers (fig. 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Freiborg by integrally joining the covers in order to better pack them during transportation. Also, Freiborg discloses the cover as being free of slits (column 4, lines 38-41).

Regarding claim 10, Freiborg discloses the trapezoidal section as free of slits (fig. 2: 26).

Regarding claim 11, Pressutti discloses upper and lower grooves (fig. 4: 66).

Claims 6 and 7, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,913,294 to Freiborg in view of U.S. Patent No. 5,467,568 to Sieling.

Regarding claim 6, Freiborg does not disclose the rectangular end of the cover as being square. Sieling discloses a folding hip cover having a square end (fig. 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Freiborg by using a square end, as disclosed by Sieling, in order to speed production by having a uniform throughout the length of the shingle.

Regarding claim 7, Freiborg discloses opposite side steps (fig. 5: 54 and opposite side 54) which are adjacent to the bottom of the T slit.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,913,294 to Freiborg.

Regarding claim 17, Freiborg discloses the basic claim structure of the instant application but does not disclose specific distances of the scoring tool to

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the back of the cover. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

### ***Claim Objections***

Claims 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to ridge covers in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK

  
Basil Katcheves

01/04/05

Examiner, AU 3635